

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jerry W. Smith,

Civil No. 09-3731 (DWF/JSM)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Mirrco Center; Mirco Center Business
Services; and Mike Ward, Manager, and
Ben Shelton, Sales Supervisor, Mirco Center,
The Ultimeter Computer Store,

Defendants.

Jerry W. Smith, *Pro Se*, Plaintiff.

This matter is before the Court upon Plaintiff Jerry W. Smith's ("Plaintiff") objections to Magistrate Judge Janie S. Mayeron's Report and Recommendation dated February 9, 2010, recommending that: (1) Plaintiff's application to proceed *in forma pauperis* be denied; and (2) this action be summarily dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Jerry W. Smith's objections (Doc. No. [10]) to Magistrate Judge Janie S. Mayeron's Report and Recommendation dated February 9, 2010, are **DENIED**.

2. Magistrate Judge Janie S. Mayeron's Report and Recommendation dated February 9, 2010 (Doc. No. [9]), is **ADOPTED**.

4. Plaintiff's application to proceed *in forma pauperis*, (Doc. No. [5]), is **DENIED**.

5. This action is summarily **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 29, 2010

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge